

AMENDED IN ASSEMBLY AUGUST 20, 2008

AMENDED IN ASSEMBLY AUGUST 18, 2008

AMENDED IN SENATE APRIL 10, 2008

AMENDED IN SENATE MARCH 27, 2008

SENATE BILL

No. 1369

Introduced by Senators Cedillo and Battin

(Principal coauthor: Assembly Member Torrico)

(Coauthors: Senators Cogdill, Denham, Ducheny, Florez, Harman, Maldonado, Padilla, Runner, and Wyland)

~~(Coauthor: Assembly Member Lieu)~~ *Coauthors: Assembly Members Adams, Aghazarian, Anderson, Benoit, Berryhill, Cook, Emmerson, Furutani, Garcia, Horton, Keene, La Malfa, Lieu, Plescia, Silva, and Smyth)*

February 21, 2008

An act to add ~~Section 19850.5~~ *Sections 19850.5 and 19850.6* to the Business and Professions Code, and to amend ~~Section 326.5~~ *Sections 326.5 and 337j* of, and to add Section 326.3 to, the Penal Code, relating to bingo.

LEGISLATIVE COUNSEL'S DIGEST

SB 1369, as amended, Cedillo. Remote caller bingo.

Existing law permits cities, counties, and cities and counties to allow bingo games to be conducted by specified organizations for charitable purposes, subject to provisions of law which, if violated, constitute a crime. Existing law defines bingo for the purposes of these provisions as a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or symbols that are selected at random. Existing law prohibits the total

value of prizes awarded for any bingo game from exceeding \$250 in cash or kind, or both, for each separate game that is held. Existing law prohibits any person from receiving or paying a profit, wage, or salary from any bingo game, except that security personnel employed by the organization conducting the bingo game may be paid from bingo game revenues. A violation of this provision is a misdemeanor.

This bill would also permit cities, counties, and cities and counties to allow bingo games to be conducted by school districts for charitable purposes. The bill would modify the definition of bingo to mean a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player's possession and that conform to numbers or symbols, selected at random and announced by a live caller. The bill would prohibit the use of electronics or video displays in connection with a bingo game, except as specified, and would also increase the allowable value of prizes for a bingo game to \$500. By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would also permit cities, counties, and cities and counties to allow remote caller bingo games, defined as bingo games in which the organization conducting the game uses audio or video technology to link electronically any of its in-state facilities for the purpose of the remote calling of a game from a single location to multiple locations owned, leased, or rented by that organization or ~~by an affiliated entity~~ *pursuant to specified agreements*. The bill would limit the operation of remote caller bingo games to organizations that have been incorporated or in existence for 3 years or more, and would allow the organization conducting the game to pay administrative, managerial, technical, financial, and security personnel reasonable fees for services rendered from bingo game revenues, with certain limitations. The bill would prohibit the value of prizes awarded during the conduct of any remote caller bingo game from exceeding 37% of the gross receipts for that game, and would require that all prize money exceeding state and federal exemption limits on prize money be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations. The bill would require remote caller bingo games to be played using traditional paper or other tangible bingo cards and daubers and would prohibit certain locations from participating in the games. The bill would provide for the regulation of remote caller bingo

by the California Gambling Control Commission, as specified. The bill would make related changes.

By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would also provide that players who are physically present at a bingo game may use hand-held, portable, card-minding devices, as described, to assist in monitoring the numbers or symbols announced in a live game. The bill would provide for the regulation of card-minding devices by the California Gambling Control Commission, as specified.

The bill would allow the commission to adopt emergency regulations implementing these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 California Remote Caller Bingo Act.
- 3 ~~SEC. 2. The Legislature finds and declares all of the following:~~
- 4 ~~(a) Nonprofit organizations provide important and essential~~
- 5 ~~educational, philanthropic, and social services to the people of the~~
- 6 ~~State of California.~~
- 7 ~~(b) One of the great strengths of California is a vibrant nonprofit~~
- 8 ~~sector.~~
- 9 ~~(c) Nonprofit and philanthropic organizations touch the lives~~
- 10 ~~of every Californian through service and employment.~~
- 11 ~~(d) Many of these services would not be available if nonprofit~~
- 12 ~~organizations did not provide them.~~
- 13 ~~(e) There is a need to provide methods of fundraising to~~
- 14 ~~nonprofit organizations to enable them to provide these essential~~
- 15 ~~services.~~
- 16 ~~(f) Historically, many nonprofit organizations have used~~
- 17 ~~charitable bingo as one of their key fundraising strategies to~~
- 18 ~~promote the mission of the charity.~~

1 ~~(g) Legislation is needed to provide greater revenues for~~
2 ~~nonprofit organizations to enable them to fulfill their charitable~~
3 ~~purposes, and especially to meet their increasing social service~~
4 ~~obligations.~~

5 ~~(h) Legislation is also needed to clarify that existing law requires~~
6 ~~that all charitable bingo must be played using a tangible card and~~
7 ~~that the only permissible electronic devices to be used by charitable~~
8 ~~bingo players are card-minding devices, except that no~~
9 ~~card-minding devices may be used in connection with a remote~~
10 ~~caller bingo game.~~

11 SEC. 3.

12 SEC. 2. Section 19850.5 is added to the Business and
13 Professions Code, to read:

14 19850.5. Notwithstanding Section 19850 or any other provision
15 of law, this chapter shall apply to ~~the operation~~ *both of the*
16 *following:*

17 *(a) The operation, regulation, and enforcement of remote caller*
18 *bingo, as defined in paragraph (1) of subdivision (t) of Section*
19 *326.3 of the Penal Code, to the extent expressly made applicable*
20 *by Section 326.3 of the Penal Code. No requirement contained in*
21 *this chapter shall apply to remote caller bingo unless expressly*
22 *made applicable by Section 326.3 of the Penal Code.*

23 *(b) The regulation of card-minding devices as provided in*
24 *subdivision (p) of Section 326.5 of the Penal Code, to the extent*
25 *expressly made applicable by Section 326.5 of the Penal Code.*
26 *No requirement contained in this chapter shall apply to*
27 *card-minding devices unless expressly made applicable by Section*
28 *326.5 of the Penal Code.*

29 SEC. 3. Section 19850.6 is added to the Business and
30 Professions Code, to read:

31 19850.6. *(a) In order to avoid delays in implementing the*
32 *California Remote Caller Bingo Act, including implementing*
33 *remote caller bingo, testing and certifying card-minding devices,*
34 *and to avoid disruption of fundraising efforts by nonprofit*
35 *organizations, the Legislature finds and declares that it is*
36 *necessary to provide the commission with a limited exemption*
37 *from normal rulemaking procedural requirements.*

38 *(b) The commission shall adopt emergency regulations*
39 *concerning remote caller bingo and concerning card-minding*
40 *devices no later than May 1, 2009. The adoption, amendment,*

1 *repeal, or readoption of a regulation authorized by this section is*
2 *deemed to address an emergency, for purposes of Sections 11346.1*
3 *and 11349.6 of the Government Code, and the commission is*
4 *hereby exempted for this purpose from the requirements of*
5 *subdivision (b) of Section 11346.1 of the Government Code, but*
6 *shall otherwise be subject to the review and approval of the Office*
7 *of Administrative Law.*

8 *(c) The emergency regulations adopted pursuant to this section*
9 *shall be effective initially for a period of 180 days from the date*
10 *of adoption or from May 1, 2009, whichever is earlier. The*
11 *regulations may be readopted once pursuant to this section for a*
12 *period of not more than 90 days.*

13 SEC. 4. Section 326.3 is added to the Penal Code, to read:

14 326.3. (a) *The Legislature finds and declares all of the*
15 *following:*

16 *(1) Nonprofit organizations provide important and essential*
17 *educational, philanthropic, and social services to the people of*
18 *the State of California.*

19 *(2) One of the great strengths of California is a vibrant nonprofit*
20 *sector.*

21 *(3) Nonprofit and philanthropic organizations touch the lives*
22 *of every Californian through service and employment.*

23 *(4) Many of these services would not be available if nonprofit*
24 *organizations did not provide them.*

25 *(5) There is a need to provide methods of fundraising to*
26 *nonprofit organizations to enable them to provide these essential*
27 *services.*

28 *(6) Historically, many nonprofit organizations have used*
29 *charitable bingo as one of their key fundraising strategies to*
30 *promote the mission of the charity.*

31 *(7) Legislation is needed to provide greater revenues for*
32 *nonprofit organizations to enable them to fulfill their charitable*
33 *purposes, and especially to meet their increasing social service*
34 *obligations.*

35 *(8) Legislation is also needed to clarify that existing law requires*
36 *that all charitable bingo must be played using a tangible card and*
37 *that the only permissible electronic devices to be used by charitable*
38 *bingo players are card-minding devices, except that no*
39 *card-minding devices may be used in connection with a remote*
40 *caller bingo game.*

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with the requirements of this section, including the following requirements:

(1) The game may be conducted only by ~~one of~~ the following organizations:

(A) An organization that is exempted from the payment of the bank and corporation tax by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, or 23701l of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens organization.

(D) A school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (l) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) *The operation of bingo may not be the primary purpose for which the organization is organized.*

~~(b)~~

(c) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision ~~(j)~~ (l), *except that fees paid under those agreements shall not be determined as a percentage of receipts or other revenues from, or on the outcome of, the game.*

~~(e)~~

(d) A violation of subdivision ~~(b)~~ (c) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the city, county, or city and

1 county that enacted the ordinance authorizing the remote caller
2 bingo game. A violation of any provision of this section, other
3 than subdivision-~~(b)~~ (c), is a misdemeanor.

4 ~~(d)~~

5 (e) The city, county, or city and county that enacted the
6 ordinance authorizing the remote caller bingo game, or the Attorney
7 General, may bring an action to enjoin a violation of this section.

8 ~~(e)~~

9 (f) No minors shall be allowed to participate in any remote caller
10 bingo game.

11 (g) *A remote caller bingo game shall not include any site that*
12 *is not located within this state.*

13 ~~(f)~~

14 (h) An organization authorized to conduct a remote caller bingo
15 game pursuant to subdivision-~~(a)~~ (b) shall conduct the game only
16 on property that is owned or leased by the organization, or the use
17 of which is donated to the organization, provided that the operation
18 of bingo games may not be a primary purpose for which the
19 organization is organized. Nothing in this subdivision shall be
20 construed to require that the property that is owned or leased by,
21 or the use of which is donated to, the organization be used or leased
22 exclusively by, or donated exclusively to, that organization.

23 ~~(g)~~

24 (i) (1) All remote caller bingo games shall be open to the public,
25 not just to the members of the authorized organization.

26 (2) No more than 750 players may participate in a remote caller
27 bingo game in a single-~~venue~~ location.

28 (3) If the Governor of California or the President of the United
29 States declares a state of emergency in response to a natural disaster
30 or other public catastrophe occurring in California, an organization
31 authorized to conduct remote caller bingo games may, while that
32 declaration is in effect, conduct those games pursuant to this section
33 with more than 750 participants in a single venue if the net
34 proceeds of the games, after deduction of prizes and overhead
35 expenses, are donated to or expended exclusively for the relief of
36 the victims of the disaster or catastrophe, and the organization
37 gives the California Gambling Control Commission at least 10
38 days' written notice of the intent to conduct those games.

39 (4) *An organization authorized to conduct remote caller bingo*
40 *games shall provide the commission with at least 30 days advance*

1 *written notice of its intent to conduct those games. That notice*
2 *shall include all of the following:*

3 *(A) The legal name of the organization and the address of record*
4 *of the agent upon whom legal notice may be served.*

5 *(B) The locations of the caller and remote players, whether the*
6 *property is owned by the organization or donated, and if donated,*
7 *by whom.*

8 *(C) The name of the licensed caller and site manager.*

9 *(D) The names of administrative, managerial, technical,*
10 *financial, and security personnel employed.*

11 *(E) The name of the vendor and any person or entity maintaining*
12 *the equipment used to operate and transmit the game.*

13 *(F) The name of the person designated as having a fiduciary*
14 *responsibility for the game pursuant to paragraph (2) of*
15 *subdivision (j).*

16 *(G) The license numbers of all persons specified in*
17 *subparagraphs (A) to (F), inclusive, who are required to be*
18 *licensed.*

19 *(H) A copy of the local ordinance for the counties in which the*
20 *game will be played. The commission shall post the ordinance on*
21 *its Internet Web site.*

22 ~~(h)~~

23 *(j) (1) A remote caller bingo game shall be operated and staffed*
24 *only by members of the authorized organization that organized it.*
25 *Those members shall not receive a profit, wage, or salary from*
26 *any bingo game. Only the organization authorized to conduct a*
27 *remote caller bingo game shall operate that game, or participate*
28 *in the promotion, supervision, or any other phase of a remote caller*
29 *bingo game. Subject to the provisions of subdivision ~~(j)~~ (l), this*
30 *subdivision shall not preclude the employment of administrative,*
31 *managerial, technical, financial, or security personnel who are not*
32 *members of the authorized organization at a location participating*
33 *in the remote caller bingo game by the organization conducting*
34 *the game. Notwithstanding any other provisions of law, exclusive*
35 *or other agreements between the authorized organization and other*
36 *entities or persons to provide services in the administration,*
37 *management, or conduct of the game shall not be considered a*
38 *violation of the prohibition against holding a legally cognizable*
39 *financial interest in the conduct of the remote caller bingo game*
40 *by persons or entities other than the charitable organization, or*

1 other entity authorized to conduct the remote caller bingo games,
2 provided that those persons or entities obtain the gambling licenses,
3 the key employee licenses, or the work permits required by, and
4 otherwise comply with, Chapter 5 (commencing with Section
5 19800) of Division 8 of the Business and Professions Code. *Fees*
6 *to be paid under any such agreements shall be reasonable and*
7 *shall not be determined as a percentage of receipts or other*
8 *revenues from, or be dependent on the outcome of, the game.*

9 (2) An organization that conducts a remote caller bingo game
10 shall designate a person as having fiduciary responsibility for the
11 game. That person shall obtain a key employee license in the same
12 manner as provided pursuant to Section 19854 of the Business and
13 Professions Code, shall meet the requirements of Section 19857
14 of the Business and Professions Code, and shall pay the fees
15 required by Section 19867 of the Business and Professions Code.
16 *game.*

17 (i)

18 (k) No individual, corporation, partnership, or other legal entity,
19 except the organization authorized to conduct or participate in a
20 remote caller bingo game, shall hold a legally cognizable financial
21 interest in the conduct of such a game.

22 (j)

23 (l) An organization authorized to conduct a remote caller bingo
24 game pursuant to this section shall not have overhead costs
25 exceeding 20 percent of gross sales, except that the limitations of
26 this section shall not apply to one-time, nonrecurring capital
27 acquisitions. For purposes of this subdivision, “overhead costs”
28 includes, but is not limited to, amounts paid for rent and equipment
29 leasing and the reasonable fees authorized to be paid to
30 administrative, managerial, technical, financial, and security
31 personnel employed by the organization pursuant to subdivision
32 (b) (c).

33 (k)

34 (m) No person shall be allowed to participate in a remote caller
35 bingo game unless the person is physically present at the time and
36 place where the remote caller bingo game is being conducted. A
37 person shall be deemed to be physically present at the place where
38 the remote caller bingo game is being conducted if he or she is
39 present at any of the locations participating in the remote caller
40 bingo game in accordance with this section.

1 ~~(h)~~

2 (n) (1) An organization shall not cosponsor a remote caller
3 bingo game with one or more other organizations unless ~~all~~ *one*
4 *of the following are true:*

5 (A) All of the cosponsors are affiliated under the master charter
6 or articles and bylaws of a single organization.

7 (B) *All of the cosponsors are affiliated through an organization*
8 *described in paragraph (1) of subdivision (b), and have the same*
9 *Internal Revenue Service activity code.*

10 (2) *Notwithstanding paragraph (1), a maximum of 10*
11 *unaffiliated organizations described in paragraph (1) of*
12 *subdivision (b) may enter into an agreement to cosponsor a remote*
13 *caller game, provided the game shall have not more than 10*
14 *locations.*

15 (3) *An organization permitted to conduct a remote caller game*
16 *shall not conduct a game more than one time per week.*

17 (4) *Before sponsoring or operating any game authorized under*
18 *paragraph (1) or (2), each of the cosponsoring organizations shall*
19 *have entered into a written agreement, a copy of which shall be*
20 *provided to the commission, setting forth how the expenses and*
21 *proceeds of the game are to be allocated among the participating*
22 *organizations, the bank accounts into which all receipts are to be*
23 *deposited and from which all prizes are to be paid, and how game*
24 *records are to be maintained and subjected to annual audit.*

25 ~~(m)~~

26 (o) The value of prizes awarded during the conduct of any
27 remote caller bingo game shall not exceed 37 percent of the gross
28 receipts for that game. Every remote caller bingo game shall be
29 played until a winner is declared. Progressive prizes are prohibited.
30 The declared winner of a remote caller bingo game shall provide
31 his or her identifying information and a mailing address to the
32 onsite manager of the remote caller bingo game. Prizes shall be
33 paid only by check; no cash prizes shall be paid. The organization
34 conducting the remote caller bingo game may issue a check to the
35 winner at the time of the game, or may send a check to the declared
36 winner by United States Postal Service certified mail, return receipt
37 requested. All prize money exceeding state and federal exemption
38 limits on prize money shall be subject to income tax reporting and
39 withholding requirements under applicable state and federal laws
40 and regulations and those reports and withholding shall be

1 forwarded, within 10 business days, to the appropriate state or
2 federal agency on behalf of the winner. A report shall accompany
3 the amount withheld identifying the person on whose behalf the
4 money is being sent. *Any game interrupted by a transmission*
5 *failure, electrical outage, or act of God shall be considered void*
6 *in the location that was affected. A refund for a canceled game or*
7 *games shall be refunded to the purchasers.*

8 ~~(n) Any organization that conducts a remote caller bingo game~~
9 ~~shall register with the Bureau of Gambling Control. The department~~
10 ~~may require an eligible organization to pay an annual registration~~
11 ~~fee of up to one hundred dollars (\$100). The annual registration~~
12 ~~fees shall be deposited by the department into the Gambling~~
13 ~~Control Fund.~~

14 ~~(o) The caller for the remote caller bingo game shall have a~~
15 ~~finding of suitability, as defined in Section 19805 of the Business~~
16 ~~and Professions Code.~~

17 ~~(p) (1) The Bureau of Gambling Control, by regulation or order,~~
18 ~~may require any person or entity set forth in subdivision (b), to~~
19 ~~apply for a finding of suitability, as defined in Section 19805 of~~
20 ~~the Business and Professions Code.~~

21 ~~(2) "Person or entity" means one who, directly or indirectly,~~
22 ~~manufactures, distributes, supplies, vends, leases, or otherwise~~
23 ~~provides, supplies, devices, or other equipment designed for use~~
24 ~~in the playing of bingo games by any nonprofit organization~~
25 ~~registered to conduct bingo games.~~

26 ~~(q) The site manager at individual remote caller bingo game~~
27 ~~locations shall apply for, obtain, and thereafter maintain a valid~~
28 ~~work permit, as defined in Section 19805 of the Business and~~
29 ~~Professions Code.~~

30 *(p) (1) The California Gambling Control Commission shall*
31 *regulate remote caller bingo, including, but not limited to, licensure*
32 *and operation. The commission shall establish reasonable criteria*
33 *regulating, and shall require the licensure and registration of, the*
34 *following:*

35 *(A) Any person who conducts remote caller bingo games*
36 *pursuant to this section, including, but not limited to, owners,*
37 *employees, persons having fiduciary responsibility for remote*
38 *caller bingo games, site managers, and bingo callers.*

39 *(B) Any person who directly or indirectly manufactures,*
40 *distributes, supplies, vends, leases, or otherwise provide supplies,*

1 *devices, services, or other equipment designed for use in the*
2 *playing of bingo games by any nonprofit organization registered*
3 *to conduct bingo games.*

4 (2) (A) *The Department of Justice shall conduct background*
5 *investigations and conduct field enforcement as it relates to remote*
6 *caller bingo consistent with the Gambling Control Act (Chapter*
7 *5 (commencing with Section 19800) of Division 8 of the Business*
8 *and Professions Code) and as specified in regulations promulgated*
9 *by the commission.*

10 (B) *Fees to cover background investigation costs shall be paid*
11 *and accounted for in accordance with Section 19867 of the*
12 *Business and Professions Code.*

13 (3) (A) *Every application for a license or approval shall be*
14 *accompanied by a nonrefundable fee, the amount of which shall*
15 *be adopted by the commission by regulation.*

16 (B) *Fees and revenue collected pursuant to this paragraph shall*
17 *be deposited in the California Bingo Fund, which is hereby created*
18 *in the State Treasury. The funds deposited in the California Bingo*
19 *Fund shall be available, upon appropriation by the Legislature,*
20 *for expenditure by the commission and the department exclusively*
21 *for the support of the commission and department in carrying out*
22 *their duties and responsibilities under this section and Section*
23 *326.5.*

24 ~~(t)~~

25 (q) *The administrative, managerial, technical, financial, and*
26 *security personnel employed by an organization that conducts*
27 *remote caller bingo games shall apply for, obtain, and thereafter*
28 *maintain valid work permits, as defined in Section 19805 of the*
29 *Business and Professions Code.*

30 ~~(s)~~

31 (r) *An organization that conducts remote caller bingo games*
32 *shall retain records in connection with the remote caller bingo*
33 *game for five years.*

34 ~~(t)~~

35 (s) (1) *All equipment used for remote caller bingo shall be*
36 *approved in advance by the California Gambling Control*
37 *Commission pursuant to subdivision (r) of Section 19841 of the*
38 *Business and Professions Code.*

(2) The California Gambling Control Commission shall monitor operation of the transmission and other equipment used for remote caller bingo, *and monitor the game*.

~~(t)~~

(t) (1) As used in this section, “remote caller bingo game” means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, ~~or by an affiliated entity under the organization’s master charter or articles and bylaws~~ *or as described in subdivision (n)*. The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

(2) The caller in the live game must be licensed by the California Gambling Control Commission. A game may be called by a nonlicensed caller if the drawing of balls and calling of numbers or symbols by that person is observed and personally supervised by a licensed caller.

(3) Remote caller bingo games shall be played using traditional paper or other tangible bingo cards and daubers, and shall not be played by using electronic devices, *except card-minding devices, as described in paragraph (1) of subdivision (p) of Section 326.5*.

(4) *The organization that conducts remote caller bingo shall submit to the commission the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating*

1 *locations, and distribution to players. Those controls,*
2 *methodologies, and standards shall be subject to prior approval*
3 *by the commission, provided that the controls shall be deemed*
4 *approved by the commission after 90 days from the date of*
5 *submission unless disapproved.*

6 ~~(v)~~

7 *(u) A location shall not be eligible to participate in a remote*
8 *caller bingo game if bingo games are conducted at that location*
9 *in violation of Section 326.5 or any regulation adopted by the*
10 *commission pursuant to Section 19841 of the Business and*
11 *Professions Code, including, but not limited to, a location at which*
12 *unlawful electronic devices are used.*

13 ~~(w) (1) A vendor of, and any person or entity maintaining, the~~
14 ~~equipment used to operate and transmit a remote caller bingo game~~
15 ~~shall obtain a license from the California Gambling Control~~
16 ~~Commission. The vendor of the equipment shall have its books~~
17 ~~and~~

18 *(v) (1) The vendor of the equipment used in a remote caller*
19 *bingo game shall have its books and records audited at least*
20 *annually by an independent California certified public accountant*
21 *and shall submit the results of that audit to the California Gambling*
22 *Control Commission within 120 days after the close of the vendor's*
23 *fiscal year. In addition, the California Gambling Control*
24 *Commission may shall audit the books and records of the vendor*
25 *at any time.*

26 *(2) An organization that conducts remote caller bingo games*
27 *shall provide copies of the records pertaining to those games to*
28 *the California Gambling Control Commission within 30 days after*
29 *the end of each calendar quarter. In addition, those records shall*
30 *be audited by an independent California certified public accountant*
31 *at least annually and copies of the audit reports shall be provided*
32 *to the California Gambling Control Commission within 150 120*
33 *days after the close of the organization's fiscal year.*

34 *(3) The costs of the licensing and audits required by this section*
35 *shall be borne by the person or entity required to be licensed or*
36 *audited. The audit shall enumerate the receipts for remote caller*
37 *bingo, the prizes disbursed, the overhead costs, and the amount*
38 *retained by the nonprofit organization. The commission may audit*
39 *the books and records of an organization that conducts remote*
40 *caller bingo games at any time.*

1 (4) *If, during an audit, the commission identifies practices in*
2 *violation of this section, the license for the audited entity may be*
3 *suspended pending review and hearing before the commission for*
4 *a final determination.*

5 (5) *No audit required to be conducted by the commission shall*
6 *commence before January 1, 2010.*

7 ~~(x)~~

8 (w) (1) The provisions of this section are severable. If any
9 provision of this section or its application is held invalid, that
10 invalidity shall not affect other provisions or applications that can
11 be given effect without the invalid provision or application.

12 (2) Notwithstanding paragraph (1), if paragraph (1) or (3) of
13 subdivision~~(u)~~ (t), or the application of either of those provisions,
14 is held invalid, this entire section shall be invalid.

15 (x) *The commission shall submit a report to the Legislature, on*
16 *or before January 1, 2012, on the fundraising effectiveness and*
17 *regulation of remote caller bingo, and other matters that are*
18 *relevant to the public interest regarding remote caller bingo.*

19 (y) *The following definitions apply for purposes of this section:*

20 (1) “Commission” means the California Gambling Control
21 Commission.

22 (2) “Person” includes a natural person, corporation, limited
23 liability company, partnership, trust, joint venture, association,
24 or any other business organization.

25 SEC. 5. Section 326.5 of the Penal Code is amended to read:

26 326.5. (a) Neither the prohibition on gambling in this chapter
27 nor in Chapter 10 (commencing with Section 330) applies to any
28 bingo game that is conducted in a city, county, or city and county
29 pursuant to an ordinance enacted under Section 19 of Article IV
30 of the State Constitution, if the ordinance allows games to be
31 conducted only in accordance with this section and only by
32 organizations exempted from the payment of the bank and
33 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
34 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and
35 Taxation Code and by mobilehome park associations, senior
36 citizens organizations, and school districts; and if the receipts of
37 those games are used only for charitable purposes.

38 (b) It is a misdemeanor for any person to receive or pay a profit,
39 wage, or salary from any bingo game authorized by Section 19 of
40 Article IV of the State Constitution. Security personnel employed

1 by the organization conducting the bingo game may be paid from
2 the revenues of bingo games, as provided in subdivisions (j) and
3 (k).

4 (c) A violation of subdivision (b) shall be punishable by a fine
5 not to exceed ten thousand dollars (\$10,000), which fine is
6 deposited in the general fund of the city, county, or city and county
7 that enacted the ordinance authorizing the bingo game. A violation
8 of any provision of this section, other than subdivision (b), is a
9 misdemeanor.

10 (d) The city, county, or city and county that enacted the
11 ordinance authorizing the bingo game may bring an action to enjoin
12 a violation of this section.

13 (e) No minors shall be allowed to participate in any bingo game.

14 (f) An organization authorized to conduct bingo games pursuant
15 to subdivision (a) shall conduct a bingo game only on property
16 owned or leased by it, or property whose use is donated to the
17 organization, and which property is used by that organization for
18 an office or for performance of the purposes for which the
19 organization is organized. Nothing in this subdivision shall be
20 construed to require that the property owned or leased by, or whose
21 use is donated to, the organization be used or leased exclusively
22 by, or donated exclusively to, that organization.

23 (g) All bingo games shall be open to the public, not just to the
24 members of the authorized organization.

25 (h) A bingo game shall be operated and staffed only by members
26 of the authorized organization that organized it. Those members
27 shall not receive a profit, wage, or salary from any bingo game.
28 Only the organization authorized to conduct a bingo game shall
29 operate such a game, or participate in the promotion, supervision,
30 or any other phase of a bingo game. This subdivision does not
31 preclude the employment of security personnel who are not
32 members of the authorized organization at a bingo game by the
33 organization conducting the game.

34 (i) No individual, corporation, partnership, or other legal entity,
35 except the organization authorized to conduct a bingo game, shall
36 hold a financial interest in the conduct of a bingo game.

37 (j) With respect to organizations exempt from payment of the
38 bank and corporation tax by Section 23701d of the Revenue and
39 Taxation Code, all profits derived from a bingo game shall be kept
40 in a special fund or account and shall not be commingled with any

1 other fund or account. Those profits shall be used only for
2 charitable purposes.

3 (k) With respect to other organizations authorized to conduct
4 bingo games pursuant to this section, all proceeds derived from a
5 bingo game shall be kept in a special fund or account and shall not
6 be commingled with any other fund or account. Proceeds are the
7 receipts of bingo games conducted by organizations not within
8 subdivision (j). Those proceeds shall be used only for charitable
9 purposes, except as follows:

10 (1) The proceeds may be used for prizes.

11 (2) ~~A~~(A) *Except as provided in subparagraph (B), a portion*
12 *of the proceeds, not to exceed 20 percent of the proceeds before*
13 *the deduction for prizes, or two thousand dollars (\$2,000) per*
14 *month, whichever is less, may be used for the rental of property*
15 *and for overhead, including the purchase of bingo equipment,*
16 *administrative expenses, security equipment, and security*
17 *personnel.*

18 *(B) For the purposes of bingo games conducted by the Lake*
19 *Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20*
20 *percent of the proceeds before the deduction for prizes, or three*
21 *thousand dollars (\$3,000) per month, whichever is less, may be*
22 *used for the rental of property and for overhead, including the*
23 *purchase of bingo equipment, administrative expenses, security*
24 *equipment, and security personnel. Any amount of the proceeds*
25 *that is additional to that permitted under subparagraph (A), up to*
26 *one thousand dollars (\$1,000), shall be used for the purpose of*
27 *financing the rebuilding of the facility and the replacement of*
28 *equipment that was destroyed by fire in 2007. The exception to*
29 *subparagraph (A) that is provided by this subparagraph shall*
30 *remain in effect only until the cost of rebuilding the facility is*
31 *repaid, or January 1, 2019, whichever occurs first.*

32 (3) The proceeds may be used to pay license fees.

33 (4) A city, county, or city and county that enacts an ordinance
34 permitting bingo games may specify in the ordinance that if the
35 monthly gross receipts from bingo games of an organization within
36 this subdivision exceed five thousand dollars (\$5,000), a minimum
37 percentage of the proceeds shall be used only for charitable
38 purposes not relating to the conducting of bingo games and that
39 the balance shall be used for prizes, rental of property, overhead,
40 administrative expenses, and payment of license fees. The amount

1 of proceeds used for rental of property, overhead, and
2 administrative expenses is subject to the limitations specified in
3 paragraph (2).

4 (l) (1) A city, county, or city and county may impose a license
5 fee on each organization that it authorizes to conduct bingo games.
6 The fee, whether for the initial license or renewal, shall not exceed
7 fifty dollars (\$50) annually, except as provided in paragraph (2).
8 If an application for a license is denied, one-half of any license
9 fee paid shall be refunded to the organization.

10 (2) In lieu of the license fee permitted under paragraph (1), a
11 city, county, or city and county may impose a license fee of fifty
12 dollars (\$50) paid upon application. If an application for a license
13 is denied, one-half of the application fee shall be refunded to the
14 organization. An additional fee for law enforcement and public
15 safety costs incurred by the city, county, or city and county that
16 are directly related to bingo activities may be imposed and shall
17 be collected monthly by the city, county, or city and county issuing
18 the license; however, the fee shall not exceed the actual costs
19 incurred in providing the service.

20 (m) No person shall be allowed to participate in a bingo game,
21 unless the person is physically present at the time and place where
22 the bingo game is being conducted.

23 (n) The total value of prizes available to be awarded during the
24 conduct of any bingo games shall not exceed five hundred dollars
25 (\$500) in cash or kind, or both, for each separate game which is
26 held.

27 (o) As used in this section, “bingo” means a game of chance in
28 which prizes are awarded on the basis of designated numbers or
29 symbols that are marked or covered by the player on a tangible
30 card in the player’s possession and that conform to numbers or
31 symbols, selected at random and announced by a live caller.
32 Notwithstanding Section 330c, as used in this section, the game
33 of bingo includes tangible cards having numbers or symbols that
34 are concealed and preprinted in a manner providing for distribution
35 of prizes. Electronics or video displays shall not be used in
36 connection with the game of bingo, except *in connection with the*
37 *caller’s drawing of numbers or symbols and the public display of*
38 *that drawing, and except* as provided in subdivision (p). The
39 winning cards shall not be known prior to the game by any person
40 participating in the playing or operation of the bingo game. All

preprinted cards shall bear the legend, “for sale or use only in a bingo game authorized under California law and pursuant to local ordinance.” Only a covered or marked tangible card possessed by a player and presented to an attendant may be used to claim a prize. It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

(p) (1) Players who are physically present at a bingo game; ~~other than a remote caller bingo game, as defined in Section 326.3;~~ may use *hand-held, portable* card-minding devices, as described in this subdivision, to assist in monitoring the numbers or symbols announced by a live caller as those numbers or symbols are called in a live game. Card-minding devices may not be used in connection with any game where a bingo card may be sold or distributed after the start of the ball draw for that game. A card-minding device shall do all of the following:

(A) Be capable of storing in the memory of the device bingo faces of tangible cards purchased by a player.

(B) Provide a means for bingo players to input manually each individual number or symbol announced by a live caller.

(C) Compare the numbers or symbols entered by the player to the bingo faces previously stored in the memory of the device.

(D) Identify winning bingo patterns that exist on the stored bingo faces.

(2) A card-minding device shall perform no functions involving the play of the game other than those described in paragraph (1). Card-minding devices shall not do any of the following:

(A) Be capable of accepting or dispensing any coins, currency, or other representative of value or on which value has been encoded.

(B) Be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.

(C) Display or represent the game result through any means, including, but not limited to, video or mechanical reels or other slot machine or casino game themes, other than highlighting the winning numbers or symbols *marked or covered on the tangible bingo cards* or giving an audio alert that the player’s card has a prize-winning pattern.

(D) Determine the outcome of any game or be physically or electronically connected to any component that determines the outcome of a game or to any other bingo equipment, including, but not limited to, the ball call station, or to any other card-minding device. No other player-operated or player-activated electronic or electromechanical device or equipment is permitted to be used in connection with a bingo game.

~~(3) (A) Before being used in any bingo game, any card-minding device shall have been tested and certified as meeting the requirements of this subdivision by the California Gambling Control Commission or an independent testing laboratory approved by the California Gambling Control Commission. Any material change to the device, including any change to the software used by the device, shall require a new certification.~~

~~(B) No person or entity shall supply or service any card-minding device unless that person or entity has applied for and received from the California Gambling Control Commission a license or other determination of suitability. That license or determination shall be issued pursuant to the same license or suitability standards as are applicable to a supplier of equipment for controlled games under the Gambling Control Act and any regulations promulgated thereunder.~~

(3) (A) A card-minding device shall be approved in advance by the commission pursuant to subdivision (r) of Section 19841 of the Business and Professions Code as meeting the requirements of Section 326.5 and any additional requirements stated in regulations adopted by the commission. Any proposed material change to the device, including any change to the software used by the device, shall be submitted to the commission and approved by the commission prior to implementation.

(B) In accordance with Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, the commission shall establish reasonable criteria for, and require the licensure and registration of, any person that directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides card-minding devices or other supplies, equipment, or services designed for use in the playing of bingo games by any nonprofit organization registered to conduct bingo games.

1 (C) *A person or entity that supplies or services any card-minding*
2 *device shall meet all licensing or registration requirements*
3 *established by the commission in regulations.*

4 (4) The costs of any testing, certification, license, or
5 determination required by this subdivision shall be borne by the
6 person or entity seeking it.

7 ~~(5) The California Gambling Control Commission and the~~
8 ~~Department of Justice shall have the right to inspect all~~
9 ~~card-minding devices at any time without notice. The Department~~
10 ~~of Justice and the California Gambling Control Commission may~~
11 ~~immediately stop the use of or impound any device that has not~~
12 ~~been certified or has been materially changed following~~
13 ~~certification.~~

14 (5) *On and after January 1, 2010, the commission and the*
15 *Department of Justice may inspect all card-minding devices at*
16 *any time without notice, and may immediately prohibit the use of,*
17 *or impound, any device that does not comply with the requirements*
18 *of subdivision (r) of Section 19841 of the Business and Professions*
19 *Code.*

20 (6) The California Gambling Control Commission shall issue
21 regulations to implement the requirements of this subdivision and
22 may issue regulations regarding the means by which the operator
23 of a bingo game, as required by applicable law, may offer
24 assistance to a player with disabilities in order to enable that player
25 to participate in a bingo game, provided that the means of providing
26 that assistance shall not be through any electronic,
27 electromechanical, or other device or equipment that accepts the
28 insertion of any coin, currency, token, credit card, or other means
29 of transmitting value, and does not constitute or resemble and is
30 not itself or a part of a system that constitutes or resembles a slot
31 machine, video lottery terminal, or any gambling device prohibited
32 in Chapter 10 (commencing with Section 330).

33 (7) *The following definitions apply for purposes of this*
34 *subdivision:*

35 (A) *“Commission” means the California Gambling Control*
36 *Commission.*

37 (B) *“Person” includes a natural person, corporation, limited*
38 *liability company, partnership, trust, joint venture, association,*
39 *or any other business organization.*

40 SEC. 6. *Section 337j of the Penal Code is amended to read:*

1 337j. (a) It is unlawful for any person, as owner, lessee, or
2 employee, whether for hire or not, either solely or in conjunction
3 with others, to do any of the following without having first
4 procured and thereafter maintained in effect all federal, state, and
5 local licenses required by law:

6 (1) To deal, operate, carry on, conduct, maintain, or expose for
7 play in this state any controlled game.

8 (2) To receive, directly or indirectly, any compensation or
9 reward or any percentage or share of the revenue, for keeping,
10 running, or carrying on any controlled game.

11 (3) To manufacture, distribute, or repair any gambling equipment
12 within the boundaries of this state, or to receive, directly or
13 indirectly, any compensation or reward for the manufacture,
14 distribution, or repair of any gambling equipment within the
15 boundaries of this state.

16 (b) It is unlawful for any person to knowingly permit any
17 controlled game to be conducted, operated, dealt, or carried on in
18 any house or building or other premises that he or she owns or
19 leases, in whole or in part, if that activity is undertaken by a person
20 who is not licensed as required by state law, or by an employee of
21 that person.

22 (c) It is unlawful for any person to knowingly permit any
23 gambling equipment to be manufactured, stored, or repaired in
24 any house or building or other premises that the person owns or
25 leases, in whole or in part, if that activity is undertaken by a person
26 who is not licensed as required by state law, or by an employee of
27 that person.

28 (d) Any person who violates, attempts to violate, or conspires
29 to violate this section shall be punished by imprisonment in a
30 county jail for not more than one year or by a fine of not more than
31 ten thousand dollars (\$10,000), or by both imprisonment and fine.
32 A second offense of this section is punishable by imprisonment in
33 a county jail for a period of not more than one year or in the state
34 prison or by a fine of not more than ten thousand dollars (\$10,000),
35 or by both imprisonment and fine.

36 (e) (1) As used in this section, “controlled game” means any
37 poker or Pai Gow game, and any other game played with cards or
38 tiles, or both, and approved by the Department of Justice, and any
39 game of chance, including any gambling device, played for

1 currency, check, credit, or any other thing of value that is not
2 prohibited and made unlawful by statute or local ordinance.

3 (2) As used in this section, “controlled game” does not include
4 any of the following:

5 (A) The game of bingo conducted pursuant to Section 326.3 *or*
6 326.5.

7 (B) Parimutuel racing on horse races regulated by the California
8 Horse Racing Board.

9 (C) Any lottery game conducted by the California State Lottery.

10 (D) Games played with cards in private homes or residences,
11 in which no person makes money for operating the game, except
12 as a player.

13 (f) This subdivision is intended to be dispositive of the law
14 relating to the collection of player fees in gambling establishments.
15 A fee may not be calculated as a fraction or percentage of wagers
16 made or winnings earned. The amount of fees charged for all
17 wagers shall be determined prior to the start of play of any hand
18 or round. However, the gambling establishment may waive
19 collection of the fee or portion of the fee in any hand or round of
20 play after the hand or round has begun pursuant to the published
21 rules of the game and the notice provided to the public. The actual
22 collection of the fee may occur before or after the start of play.
23 Ample notice shall be provided to the patrons of gambling
24 establishments relating to the assessment of fees. Flat fees on each
25 wager may be assessed at different collection rates, but no more
26 than five collection rates may be established per table. However,
27 if the gambling establishment waives its collection fee, this fee
28 does not constitute one of the five collection rates.

29 ~~SEC. 6.~~

30 *SEC. 7.* No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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